

Mechanisms for control by Member States of the Commission's exercise of implementing powers, 'Comitology Regulation'

2010/0051(COD) - 16/12/2019 - Follow-up document

In accordance with Regulation (EU) No 182/2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (the 'Comitology Regulation'), the Commission hereby presents the annual report on the working of committees for 2018.

General development

All comitology procedures provided for in the 'old' Comitology Decision, with the exception of the regulatory procedure with scrutiny, were automatically adapted to the new comitology procedures provided for in the Comitology Regulation. In 2018, the comitology committees were therefore operating under the procedures set out in the Comitology Regulation, i.e. advisory (Article 4) and examination (Article 5), as well as under the regulatory procedure with scrutiny set out in Article 5a of the Comitology Decision.

In particular, the report mentions:

- the adoption by the Commission, following the Interinstitutional Agreement on better law-making of 13 April 2016, of a [proposal](#) on the alignment of the basic acts providing for the regulatory procedure with scrutiny to delegated and implementing acts. It also adopted a second [proposal](#), dealing specifically with the alignment of basic acts in the field of justice. The legislator agreed to the alignment of 64 of the basic acts concerned, while negotiations on the remaining acts and on the acts in the area of justice will continue;
- the adoption by the Commission on 26 February 2016 of a report on the implementation of Regulation (EU) 182/2011. Subsequently, the Commission on 14 February 2017 adopted a [proposal](#) for a Regulation of the European Parliament and of the Council amending the Comitology Regulation. This proposal puts forward a number of targeted changes to the functioning of the appeal committee to address no opinion situations in sensitive areas. This file, however, is currently blocked in interinstitutional negotiations;
- the conclusion of the negotiations between the three institutions on non-binding criteria for the application of Articles 290 and 291 of the Treaty on the Functioning of the European Union, so the delineation between delegated and implementing acts. The final text of the delineation criteria has been published in the Official Journal on 3 July 2019;
- the adoption of the communication 'Better regulation for better results' of May 2015, in which the Commission committed that draft texts for delegated acts and drafts for important implementing acts will be made public for a four weeks feedback period, allowing stakeholders to submit comments. In 2018, 165 such draft acts were published for public feedback on the Commission's 'Have your say' website;
- the judgment of 13 December 2018 in Joined Cases T-339/16, T-352/16 and T-391/16 in which the General Court concluded, first, that the limits applied to vehicle emissions laid down in an annex to the basic act did indeed constitute an essential element of that instrument and, second, that there was no provision expressly empowering the Commission to amend them.

Overview of activities

The report presents the number of active comitology committees by sector of activity for the period from 1 January to 31 December 2018. In 2018, the number of committees was 275 (compared to 267 in 2017).

In 2018, the comitology committees could generally be broken down according to the type of procedure governing their activity: advisory procedure (23 committees), examination procedure (100 committees) and regulatory procedure with scrutiny (21 committees).

This report provides overall figures on the formal opinions delivered by the committees and the subsequent implementing acts/measures adopted by the Commission. The European Parliament and the Council have a right of scrutiny. In 2018, the European Parliament adopted 9 resolutions on the basis of Article 11 of the Comitology Regulation, while the Council has not adopted any such resolution.

The appeal committee met 6 times during 2018, and discussed 12 draft implementing acts (in the areas of health and consumer policy) which were referred by the Commission. The appeal committee delivered no opinion in all 12 cases. The Commission decided to adopt 11 implementing acts following such no opinion in 2018.

Lastly, in 2018, 90 measures were adopted according to the regulatory procedure with scrutiny. The right to oppose was used once, by the European Parliament. In 2017, by comparison, the right to oppose was also used once.